

OPINION SUMMARY
MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION TWO

MARY BETH TATICEK,) No. ED103852
)
Appellant,) Appeal from the Circuit Court of
) St. Charles County
vs.)
) Honorable Richard K. Zerr
HOMEFIELD GARDENS CONDOMINIUM)
ASSOCIATION, et al.,)
)
Respondents.) Filed: June 21, 2016

Mary Beth Taticek (Appellant) appeals the judgment of the Circuit Court of St. Charles County granting Homefield Gardens Condominium Association and Roy H. Smith Real Estate Company's (collectively, Respondents) motion for summary judgment. In two points on appeal, Appellant argues that the trial court erred by granting Respondents' motion for summary judgment because 1) Respondents owed Appellant a duty under three different theories of negligence liability, and 2) the question of whether Respondents breached their duty to Appellant was a question of fact reserved for a jury.

AFFIRMED IN PART, REVERSED IN PART AND REMANDED.

Division Two Holds:

- 1) The trial court did not err by concluding that Respondents did not have a duty to create reasonable rules and regulations.
- 2) The trial court erred by granting summary judgment because Respondents had a duty to enforce the condominium association's rules and regulations.
- 3) The trial court erred by granting summary judgment because Respondents undertook to enforce the condominium association's rules and regulations.
- 4) Whether Respondents exercised reasonable care is a question of fact for the jury.

Opinion by: Philip M. Hess, P.J.
Gary M. Gaertner, Jr., J. and Angela T. Quigless, J. concur.

Attorney for Appellant: John G. Simon,
John M. Simon and Kevin M. Carnie, Jr., Co-counsel

Attorney for Respondents: Scott C. Harper
Aaron I. Mandel and John A. Mazzei, Co-counsel

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